

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6121 of 1996

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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ALIMOHMAD IBRAHIMBHAI MOTALA

Versus

COLLECTOR

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Appearance:

MR JV JAPPEE for Petitioners

MR TH SOMPURA, Asst. G.P for Respondent No. 1, 2

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 10/12/96

ORAL JUDGEMENT

Heard learned advocates for the parties. Rule returnable today. Learned AGP Mr Sompura waives services of Rule on behalf of the respondents.

The petitioners were allotted pieces of lands in village Virpur of Taluka Himmatnagar under orders dated 20th July, 1981 and 3rd September, 1981 respectively on condition that the petitioners shall complete

construction of residential house on their respective plots of lands within a period of two years from the date of the orders. It appears that both the petitioners failed to comply with the said condition and the lands have not been constructed upon till to day. In view of the breach of condition, proceedings were initiated against the petitioners by the Collector, Sabarkantha. After affording an opportunity of hearing to the petitioners, the Collector, Sabarkantha made an order on 12th August, 1994 cancelling the order of allotment and of forfeiting plots of land. Feeling aggrieved, the petitioners preferred appeal before the Government which too came to be rejected under order dated 30th April, 1996.

3. Feeling aggrieved, the petitioners have preferred this petition. Learned advocate Mr. Jappi has appeared for the petitioners and has contended that the petitioners are poor persons and they could not construct residential house for want of necessary funds. He, however, submitted that if some further time is granted, both the petitioners shall complete the construction on the said plots of lands. Learned Asstt.GP Mr. Sompura has opposed the proposition made by him and has contended that the precious residential plots of land are permitted to remain fallow for nearly 15 years and, thus, the lands are being wasted.

4. I have considered the submissions made by both the learned advocates. On the facts of the case, the impugned orders made by the Collector Sabarkantha on 26th August, 1994 and by the Government on 19th April, 1996 annexure "B" & "D" to the petition respectively are quashed and set aside on a condition that the petitioners shall commence construction on the plots of lands in question before 31st January, 1997 and shall complete the construction before 30th June, 1998. In the event the petitioners fail to raise construction as aforesaid, the impugned orders at annexure "B" & "D" shall stand revived. The petition is allowed to the aforesaid extent. Rule is made absolute. There shall be no order as to costs.

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